

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF TENNESSEE

CASE NO: 1:19-cv-00044-TRM-SKL

STEPHEN EIMERS, as Personal Representative
of the Estate of HANNAH EIMERS, Deceased,

Plaintiff,

v.

VALMONT INDUSTRIES, INC., a foreign
corporation; VALMONT HIGHWAY, a foreign
corporation; ARMORFLEX INTERNATIONAL
LIMITED, a foreign corporation; LINDSAY
CORPORATION, a foreign corporation; LINDSAY
TRANSPORTATION SOLUTION SALES &
SERVICE, LLC., a foreign corporation; and
REYNOLDS FENCE & GUARDRAIL, INC., a
foreign corporation,

Defendants.

**PLAINTIFF'S MOTION FOR DISMISSAL OF DEFENDANTS, VALMONT
INDUSTRIES, INC., VALMONT HIGHWAY, AND ARMORFLEX INTERNATIONAL
LIMITED WITHOUT PREJUDICE**

Plaintiff Stephen Eimers hereby moves to dismiss Defendants VALMONT INDUSTRIES, INC., VALMONT HIGHWAY, and ARMORFLEX INTERNATIONAL LIMITED [hereinafter "Valmont Defendants"] without prejudice. In support thereof, Plaintiff would show that:

1. The Plaintiff and Valmont Defendants have entered into a tolling agreement predicated on the dismissal of the Valmont Defendants without prejudice, and the preservation of all defenses available to the Valmont Defendants as set forth in that agreement.

2. The Valmont Defendants have not yet appeared in this action, nor have they made any filings.
3. The Valmont Defendants do not oppose the request sought herein on the understanding that it does not alter or waive any defenses that have been reserved in the tolling agreement.

WHEREFORE, Plaintiff respectfully requests the Court grant this Motion to dismiss Defendants VALMONT INDUSTRIES, INC., VALMONT HIGHWAY, and ARMORFLEX INTERNATIONAL LIMITED without prejudice.

CERTIFICATE OF SERVICE

I hereby certify that on Thursday, June 13, 2019 I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record or pro se parties identified on the attached Service List in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronically.

s/POORAD RAZAVI

POORAD RAZAVI

Florida Bar No.: 022876

Email: prazavi@cohenmilstein.com

Cohen Milstein Sellers & Toll, PLLC

2925 PGA Boulevard, Suite 200

Palm Beach Gardens, FL 33410

Telephone: (561) 515-1400

Facsimile: (561) 515-1401

Attorneys for Plaintiff

*Cohen Milstein Sellers & Toll, PLLC
2925 PGA Boulevard, Suite 200, Palm Beach Gardens, FL 33410
Telephone: (561) 515-1400 Facsimile (561) 515-1401*

I hereby certify that a true and correct copy of the foregoing Response was served on counsel for the parties listed below via electronic mail and first class mail, postage prepaid, unless said party is a registered CM/ECF participant who has consented to electronic notice, and the Notice of Electronic Filing indicates that Notice was electronically mailed to said party:

Brigid M. Carpenter, Esq.
bcarpenter@bakerdonelson.com
Baker Donelson Bearman, et. al.
211 Commerce Street #800
Nashville, TN 37201
Attorneys for Lindsay Defendants

James H. Heller, Esq.
jimheller@cozen.com
Shelby Riney, Esq.
sriney@cozen.com
Cozen O'Connor
One Liberty Place
1650 Market Street, Suite 2800
Philadelphia, PA 19103
Attorneys for Lindsay Defendants

Cohen Milstein Sellers & Toll, PLLC
2925 PGA Boulevard, Suite 200, Palm Beach Gardens, FL 33410
Telephone: (561) 515-1400 Facsimile (561) 515-1401